IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

(1) Writ Petition No.10199 of 2004

Devpal Bapusaheb Patil ..Petitioner

vs.

State of Maharashtra & Ors. ..Respondents

Shri Uday Warunjikar for petitioner
Ms.V.S.Mhaispurkar, A.G.P. for respondent no.1.

(2) Writ Petition No.6733 of 2004

Arwade Medical Stores ...Petitioner

vs.

State of Maharashtra & Ors. ..Respondents

Shri Uday Warunjikar for petitioner.
Shri A.A.Kumbhakoni, Associate Advocate General with
Ms.V.S.Mhaispurkar, A.G.P. for respondent State.

CORAM: S.B.MHASE J.
17th April, 2006

P.C.

1. Heard the learned counsel for the parties.

2. The respondent Bank has filed the proceedings under sec.101 of the Maharashtra Cooperative Societies Act, 1960 against the petitioners in writ petition no.6733 of 2004 and writ petition no.10199 of 2004. The petitioner in writ petition No.6733 of 2004 is the main borrower while the petitioners in writ petition no.10199 of 2004 are the guarantors. After hearing the petitioners certificate under sec.101 was granted by the Deputy Registrar, Cooperative Societies, Miraj and it is the certificate for the amount of Rs.26,92,774.20 and interest on

Rs.26,78,357.20 at the rate of 20% from 1st October, 2000. This certificate is challenged by the petitioners directly in this Court when in fact remedy under sec.154 of the Cooperative Societies Act,1960 is available to the petitioners. It is to be noted that while issuing the notice in writ petition no.6733 of 2004, this Court has directed the petitioner (main borrower) in Writ Petition No.6733 of 2004 to deposit the amount of Rs.15,00,000/- (Rupees Fifteen lacs) and thereon interim relief was to operate.a Now, it transpires that the remedy by way of sec.154 is available to the petitioners and, therefore, the learned counsel for the petitioners states that the petitioners in both the petitions will prefer the revision application under sec.154 before the State Government and/or the Divisional Joint Registrar. He further submitted that the amount of Rs.15,00,000/- which has been deposited in view of the orders of this Court shall be adjusted as 50% payment which is statutory requirement under sec.154(2a) of the Act. Shri Kumbhakoni, learned Counsel for respondents, submitted that he is not aware as to whether the amount has been deposited or not but he has no objection for adjusting the said amount towards required 50% amount to be deposited by the petitioners while preferring the revision application. In view of this, learned counsel for the petitioners state that he may be allowed to withdraw the petitions with liberty to file the revision applications before the appropriate forum with liberty to adjust the amount of Rs.15,00,000/-(Rupees Fifteen lacs) deposited in view of

the order of this Court by way of statutory payment under sec.154. Therefore, I pass the following order.

a) The petitioners in both the petitions are allowed to withdraw the petition with liberty to prefer revision application before the appropriate authority. If such revision application is preferred the amount of Rs.15,00,000/- (Rupees Fifteen lacs) which is deposited in view of the directions of this Court shall be adjusted towards 50% statutory payment in the said revision application. It is further made clear that if the amount of Rs.15,00,000/- has not been deposited inspite of the order of this Court passed in Writ Petition No.6733 of 2004 then along with the revision application 50% of the amount of certificate shall be deposited by the petitioners and in that eventuality the question of adjustment will not arise. With these observations the petitions are disposed of.

b) All contentions raised in these petitions are kept open to be adjudicated and considered by the Divisional Joint Registrar and/or by State Government.

(S.B.MHASE J.)